



**MINUTES OF THE  
RULES AND OPEN GOVERNMENT COMMITTEE**

**SAN JOSE, CALIFORNIA**

**WEDNESDAY, MAY 21, 2014**

The Rules and Open Government Committee of the City of San José convened in Regular Session at 2:00 p.m. in the Committee Rooms 118-120, Council Wing, City Hall.

**PRESENT:** Mayor Chuck Reed, Vice-Mayor Madison Nguyen, Councilmember Pete Constant and Councilmember Pierluigi Oliverio.

**ABSENT:** All Present.

**STAFF:** City Manager Ed Shikada, Assistant City Manager Norberto Duenas, City Attorney Richard Doyle, City Clerk Toni Taber, Assistant City Clerk Tom Graves, Mayor's Agenda Services Manager Ahmad Chapman, Agenda Services Manager Gloria Schmanek, and Deputy City Clerk Suzanne Guzzetta.

**CITY COUNCIL (CITY CLERK)**

**(1) Review May 27, 2014 Final Agenda**  
Cancelled.

**(2) Review May 13, 2014 Draft Agenda**  
a. Add New Items to Draft Agenda  
b. Assign "Time Certain" to Agenda Items (if needed)  
c. Review of Items that Meet Exception Rule (if needed)

Action: Upon motion by Councilmember Constant, seconded by Councilmember Oliverio and carried unanimously, the Committee approved the agenda including the following additions and changes. (4-0.): 2.x Actions Related to Councilmember Constant's Travel to Houston, TX; Items 9.2 and 9.3 combined into SARA Consent Calendar to be heard immediately following the regular Consent Calendar; Item 8.1 to be heard immediately following the Consent Calendar; Items 3.5, 3.6, 3.7, 3.8, 3.9, 3.10, 3.12, 3.13, 4.1, and 6.1 moved to the Consent Calendar; Items 3.4 and 5.1 deferred to June 10, 2014.

**REVIEW OF UPCOMING STUDY SESSION AGENDA(S)**

None.

## LEGISLATIVE UPDATE

- (1) State – No Report.
- (2) Federal – No Report.

## MEETING SCHEDULES

None.

## THE PUBLIC RECORD

Documents Filed: Memorandum from City Clerk Toni Taber to the Mayor and City Council dated May 16, 2014, transmitting the Public Record for the Week of May 9, 2014 – May 15, 2014.

Action: Upon motion by Councilmember Constant, seconded by Councilmember Oliverio and carried unanimously, the Public Record was noted and filed. (4-0)

## BOARDS, COMMISSIONS AND COMMITTEES

- (1) Appointments – None.
- (2) Work Plans – None.
- (3) Annual Reports – None.

## RULES COMMITTEE REVIEWS, RECOMMENDATIONS AND APPROVALS

- (1) **Workload Assessment for Council Requests and Referrals.** – None.
- (2) **Eritrean Independence Day Flag Raising Ceremony. (Liccardo)**
  - a. Approve the District 3 Eritrean Independence Day Flag Raising Ceremony scheduled for May 23, 2014, as a City Council sponsored Special Event and approve expenditure of funds.
  - b. Approve and accept donations from various individuals, businesses, or community groups to support the event.
  - c. Place the item on the June 3, 2014 Council Agenda for action.

Documents Filed: Memorandum from Councilmember Liccardo to the Mayor and City Council dated May 16, 2014, forwarding the recommendations.

**(2) (Cont'd.)**

Action: Upon motion by Councilmember Oliverio, seconded by Nguyen and carried unanimously, the Committee approved the recommendations, and forwarded the recommendation to the full City Council for discussion and formal action on the June 3, 2014 City Council Agenda. (4-0)

**(3) Casino M8trix: Pay up, or Close Down. (Liccardo)**

Direct that:

- 1) The City Manager notify Casino M8trix of the City Manager's intention to commence proceedings in 30 days to suspend its gaming permit and any related licenses under Title 16, and any applicable conditional use or other land use permits for the club's operations, if Casino M8trix fails to pay the full amount due to Asian Americans for Community Involvement by that date, pursuant to its 2009 settlement with the City of San José.
- 2) The City Auditor and the City Manager conduct a full investigation of Casino M8trix's operations and financials to determine whether, in light of the apparent concealment of tens of millions of casino profits, the card club owes the City additional funds under the 15% cardroom tax, or any other City fees or taxes.
- 3) The City Attorney halt any Council consideration of proposed changes to the Municipal Code that would weaken or otherwise alter City gaming regulatory procedures, until the conclusion of the adjudication of the California Gambling Control Commission.
- 4) The City Manager to await adjudication of the Accusation filed by the state Attorney General before the California Gambling Control Commission, and upon findings of fraudulent concealment of funds, other gross illegality, or any finding which forms a basis for regulatory action on part of the City, commence proceedings to revoke Casino M8trix's Title 16 gaming permit and any related licenses.

Documents Filed: Memorandum from Councilmember Liccardo to the Rules and Open Government Committee dated May 14, 2014, forwarding the recommendations.

Public Comments: Michele Lew, CEO of Asian Americans for Community Involvement (AACI), asked the City look into the matter further.

Discussion: Councilmember Liccardo provided additional comments on the memorandum he submitted to the Committee.

City Attorney Richard Doyle and Michele Lew, CEO of Asian Americans for Community Involvement (AACI), answered questions from the Committee.

Extensive Committee discussion followed.

**(3) (Cont'd.)**

Motion: Councilmember Constant moved to refer the issue to the City Attorney and City Manager to work with the Chief of Police and Division of Gaming to monitor the situation and conduct investigations as deemed appropriate by the Chief of Police to make sure card clubs are in compliance with the laws in place. Vice Mayor Nguyen seconded the motion.

Councilmember Liccardo clarified due to contractual obligations already in place that the involvement of the City Auditor would be appropriate.

Mayor Reed requested to amend the motion to direct staff to come back to the Committee with clarification as to the scope of what the City can do in terms of contractual rights, and return with whether the Gaming Division has the capacity to "follow the money". Councilmember Constant and Vice Mayor Nguyen accepted the amendment.

Action: On a call for the question, the motion carried unanimously, with direction to: (1) refer the issue to the City Attorney and City Manager to work with the Chief of Police and Division of Gaming to monitor the situation and conduct investigations as deemed appropriate by the Chief of Police to make sure card clubs are in compliance with the laws in place; (2) Staff return to the Committee with clarification as to the scope of what the City can do in terms of contractual rights; and (3) Staff return with whether the Gaming Division has the capacity to "follow the money". (4-0)

**(4) Waiver of Revolving Door Restrictions. (City Attorney)**

The Rules Committee considers a request for a Waiver of the Revolving Door Restriction under San Jose Municipal Code (SJMC) Section 12.10.070 for:

- a. Josué Garcia, former Chief of Staff for Councilmember Xavier Campos
- b. Make a recommendation to the City Council as appropriate and forward the item to the full Council for action on June 3, 2014. The Committee has the following options:
  - 1) Forward to the Council with no recommendation; or,
  - 2) If the Committee finds that such a waiver is in the best interest of the of the City, to recommend approval of the waiver by the Council; or,
  - 3) If the Committee finds that such a waiver is not in the City's interests, to recommend denial of the waiver request by the Council.

Documents Filed: Memorandum from City Attorney Richard Doyle to the Mayor and City Council dated May 16, 2014, forwarding the recommendations.

City Attorney Richard Doyle provided background on the Revolving Door Ordinance, and answered questions from the Committee.

Public Comments: Josué Garcia urged the Committee to approve the waiver of the revolving door ordinance.

Action: Upon motion by Councilmember Constant, seconded by Vice Mayor Nguyen and carried unanimously, the Committee recommended Option 3, finding that such a waiver is not in the City's interests, to recommend denial of the waiver request by the Council, and forwarded the recommendation to the full City Council for discussion and formal action on June 10, 2014. (4-0.)

## **REVIEW OF ADDITIONS TO COUNCIL COMMITTEE AGENDAS/WORKPLANS**

- (1) Community and Economic Development Committee – None.
- (2) Neighborhood Services and Education Committee – None.
- (3) Transportation and Environment Committee – None.
- (4) Public Safety, Finance and Strategic Support Committee – None.
- (5) Rules and Open Government Committee – None.

## **OPEN GOVERNMENT**

- (1) Appeals of Public Records Act Request – None.

## **OPEN FORUM**

There was no public testimony on the floor.

## **ADJOURNMENT**

The meeting adjourned at 2:54 p.m.



Mayor Chuck Reed  
Rules and Open Government Committee

CR:slg